



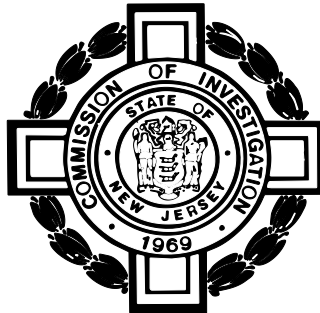
State of New Jersey
Commission of Investigation

INDUSTRIOUS **SUBVERSION**

***CIRCUMVENTION OF OVERSIGHT
IN SOLID WASTE AND RECYCLING
IN NEW JERSEY***

December 2011

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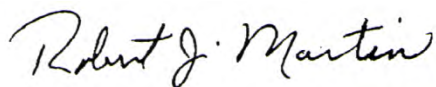
Governor Chris Christie
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M, herewith formally submits the final report of findings and recommendations stemming from an investigation into the circumvention of oversight in solid waste and recycling in New Jersey.

Respectfully,

A handwritten signature in black ink, appearing to be "Patrick E. Hobbs". The signature is written in a cursive style with a large, sweeping initial "P" and "H".

Patrick E. Hobbs
Chair

A handwritten signature in black ink, appearing to be "Robert J. Martin". The signature is written in a cursive style with a large, sweeping initial "R" and "M".

Robert J. Martin
Commissioner

A handwritten signature in black ink, appearing to be "Todd R. Caliguire". The signature is written in a cursive style with a large, sweeping initial "T" and "C".

Todd R. Caliguire
Commissioner

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Executive Summary

Over the years, lawmakers, regulators and law enforcement officials repeatedly have taken aim at organized crime and other criminal elements in New Jersey's solid waste industry. Garbage mobsters have been prosecuted and jailed, their waste-hauling cartels have been dismantled, and special licensing requirements have been established – all in an effort to prevent convicted felons and other unscrupulous individuals from systematically infiltrating and subverting what collectively constitutes one of the State's largest commercial enterprises impacting the health and quality of life of the citizens of New Jersey.

Despite these actions, the integrity of this industry remains in peril. The State Commission of Investigation, which first uncovered significant criminal intrusion into solid waste as far back as the late 1960s, has found that the industry today remains open to manipulation and abuse by criminal elements that circumvent the State's existing regulatory and oversight system. The urgency of this matter is compounded by evidence that convicted felons, including organized crime members and associates, profit heavily from commercial recycling, which, though a lucrative adjunct to solid waste, has remained largely unregulated. That is the case even though recycling has developed and grown to be an economic force far beyond what was envisioned when New Jersey adopted mandatory recycling nearly 25 years ago.

The Commission's latest investigation has revealed that individuals who were banned from the solid waste industry in New Jersey years ago because of ties to organized crime or other criminal activities nonetheless have found ways to conduct a lucrative commerce in

waste-hauling and recycling here. In some cases, they operate behind the guise of seemingly legitimate front companies. In others, they make money secondarily as the owners of real estate and/or equipment leased to licensed waste companies. In still others, their business interests are covertly embedded in firms owned and operated by relatives whose credentials and clean criminal records satisfy solid waste licensing requirements.

Among the most disturbing trends identified during this inquiry is the fact that New Jersey once again has become a haven for criminally tainted garbage and recycling entrepreneurs who were kicked out of the business as a result of heightened vigilance and stronger rules elsewhere, most notably in neighboring New York. During this investigation, the Commission identified more than 30 individuals debarred by New York but currently engaged in commercial solid waste and/or recycling in New Jersey. Of particular concern is the vulnerability to corruption of certain activities, such as the recycling and disposal of contaminated soil and demolition debris that pose serious potential environmental and public-health consequences.¹

These phenomena have occurred because the system established in New Jersey a quarter-century ago to keep the industry clean does not work nearly as well as was intended and, indeed, has not for some time. That system is grounded in a statute hamstrung by loopholes which all but invite exploitation by unsavory operators. It is administered by government agencies that sometimes work at cross purposes and whose assigned personnel

¹ Four categories of recyclable materials are defined in N.J.A.C. 7:26A-1.3. Class A recyclable material means “a source separated non-putrescible recycling material (metal, glass, paper, plastic container, and corrugated and other cardboard).” Class B recyclable material includes debris from demolition and construction work. Class C recyclable material consists of food waste, biodegradable plastic and yard trimmings. Class D recyclable material includes oils, antifreeze, latex paints, batteries, mercury containing devices, and consumer electronics.

have not uniformly or consistently communicated or shared information with each other. It is under-staffed, under-equipped and under-funded. And that is just on the solid waste end of the regulatory spectrum. When it comes to vetting, overseeing and controlling the activities of those engaged in recycling, the flaw is obvious and far more fundamental: there is no systemic oversight.

The Commission undertook this investigation pursuant to its statutory responsibility to ascertain whether the laws of New Jersey are being faithfully executed and effectively enforced and to inform the Governor, the Legislature, the Attorney General, and the general public of the activities of organized crime in all of its facets. What lends particular significance to this matter is that this is the third time in four decades that the Commission will have put authorities on notice about the continued intrusion of criminal elements into New Jersey's solid waste industry.

In 1969, the Commission revealed that organized crime rooted in New York was spreading into commercial garbage collection in New Jersey and warned that the industry was at dire risk of becoming rife with bribery, extortion, price-fixing, collusive bidding and other forms of corruption. In response to these findings, legislation was enacted placing solid waste under state regulation for the first time and setting forth explicit prohibitions against restraints of trade in that industry.² The Commission also recommended the vetting and licensing of all solid waste haulers, but that requirement was not mandated by statute until 1983 through the

² The three key statutes enacted at that time were the Solid Waste Management Act ([N.J.S.A. 13:1E-1 et seq.](#)), which gave the N.J. Department of Environmental Protection the power to manage the industry; the Solid Waste Utility Control Act ([N.J.S.A. 48:13A-1 et seq.](#)), which added solid waste collection and disposal to the rate-setting regulatory duties of the N.J. Board of Public Utilities; and the New Jersey Antitrust Act ([N.J.S.A. 56:9-1 et seq.](#)), which prohibited restraints of trade.

A-901 Law.³ Because of delays stemming from legal challenges, the licensing program established by this law – commonly known as the A-901 program based on the bill number assigned to it in the General Assembly – did not take effect until 1986. Under its terms, businesses seeking to participate in the solid waste industry were required to complete detailed personal and financial disclosure statements, submit to fingerprint checks and undergo background investigations by the State Police. In a sweeping statement of intent attached to this statutory effort, the Legislature declared that it shall be “the public policy of this State”:

[t]hat the solid and hazardous waste industries in New Jersey can attain, maintain and retain integrity, public confidence, and trust . . . only under a system of control and regulation that precludes the participation therein of persons with known criminal records, habits, or associations, and excludes or removes from any position of authority or responsibility any person known to be so deficient . . . that his participation would create or enhance the dangers of unsound, unfair, or illegal practices, methods, and activities in the conduct of the business of these industries.

Three years after the launch of this program, the Commission followed up and found that the new licensing requirements were impeded by serious administrative, procedural and statutory shortcomings.⁴ It cautioned that individuals and entities with criminal ties would continue to enter and profit from the industry unless the A-901 program was expanded, streamlined and properly enforced; urged that steps be taken to prioritize action against obvious candidates for potential debarment; and recommended tougher penalties be imposed for violations of the law, particularly with regard to the falsification of licensing paperwork and the deliberate misrepresentation of business interests.

³ N.J.S.A. 13:1E-126 et seq.

⁴ See SCI report, *Solid Waste Regulation*, issued in April 1989.

That the Commission today, more than 20 years later, must repeat some of the same general findings and recommendations is a testament to the price of warnings ignored, opportunities lost, and legislative intent undermined. It is also a testament to the guile and persistence of unqualified individuals who remain willing and able to subvert the system.

During the course of this latest inquiry, it became apparent that the state agencies charged with protecting the integrity of this industry – the Department of Environmental Protection and the Department of Law and Public Safety through the Divisions of Law and the State Police – have long been working and struggling against the odds with inadequate tools in a system plagued by structural deficiencies. The piling up, for example, of unreasonable and unwieldy delays in the conduct and review of licensing background checks – with backlogs stretching to more than a year in some cases – does not happen overnight. The ability of mob-affiliated entrepreneurs to continue profiting from the system even after they have been unmasked reflects a fundamental flaw and not merely some anomalous bureaucratic snafu. It must be noted that personnel at these agencies cooperated fully with Commission investigators, and, when alerted to specific problematic circumstances demanding action, took immediate remedial steps. Based upon referrals by the Commission, steps have been taken to scrutinize and, where appropriate, to remove tainted individuals from participation in the solid waste industry.

Agencies in New Jersey and other jurisdictions also are now taking greater pains to share and exchange information and intelligence. Efforts have also been undertaken recently and throughout this inquiry to beef up regulatory manpower and to target obscure practices, such as the improper leasing of vehicles, that render the industry vulnerable to manipulation

and outright abuse. In many respects, given the limited resources at their disposal and the weaknesses in the law they are charged with enforcing, responsible government officials here are doing the best they can. But that is not nearly enough. And there is too much at stake to allow business-as-usual to proceed indefinitely.

It was long ago established that the solid waste industry is uniquely prone to infiltration by organized crime and other nefarious elements who view it as easy money both for personal gain and in furtherance of multiple criminal activities. As the Commission noted in its 1989 report, “There is too much history of, and opportunity for, midnight dumping, mixing of hazardous and solid waste materials, waste flow violations, customer-allocation and bid-rigging schemes, and union manipulations to warrant an overly-tolerant attitude.”

As New Jersey enters the second decade of the 21st Century, that admonition is more relevant than ever. The escalating cost and dwindling volume of landfills and other approved disposal options place a premium on every load of solid waste collected, a premium that serves as an appealing incentive for unscrupulous haulers to cut corners and maximize profits. Moreover, emerging global markets in recycling, including commerce in so-called “e-waste” – the reclamation and resale of junked computer components and other high-tech electronic detritus – offer financially attractive, yet thoroughly unregulated avenues of diversification for legitimate and corrupt business interests alike.

In light of these concerns, the findings and recommendations set forth in this report should not be ignored, discarded or placed on the dust bin of history. It is long past time for meaningful reform and action of a caliber that once and for all will put New Jersey on the right track in this realm. As outlined in greater detail at the conclusion of this document, the

Commission recommends that the A-901 program be strengthened and expanded to provide for greater scrutiny of individuals who are engaged, whether directly or indirectly, in the State's solid waste industry. The report details why identical statutory licensing and related requirements should be established for individuals and entities doing business in recycling. It reveals why authority over this enhanced regulatory structure should be consolidated within a single agency of state government to facilitate greater efficiency and better communication and why the program's existing records-management apparatus should be completely overhauled to give regulators quick access to up-to-date information on the industry and its participants and to enable more effective sharing of such information among relevant agencies both inside New Jersey and beyond its borders.

The State must devise a sensible means of providing this necessary regulatory function with the proper resources to get the job done. Given the prevailing austere fiscal climate, of course, that presents a major challenge. Nevertheless, since its inception, the A-901 program and related functions have rarely been allocated adequate funding or manpower, and ultimately that must change if New Jersey is serious about shielding the industry from unsavory elements, particularly if the licensing framework is expanded to include recycling. In that context, it is anticipated that based on the findings of this report, the Governor and Legislature will consider a variety of targeted, off-budget self-funding mechanisms, including a regimen of special licensing fees, which would help sustain this vital effort without imposing an undue burden on the taxpayers.

Key Findings

SYSTEMIC FLAWS

Regulation and control of the solid waste industry in New Jersey is the shared domain of three state government entities – the Department of Environmental Protection (DEP) and two divisions of the Department of Law and Public Safety: the Division of Law and the Division of State Police.

Under terms of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., DEP is granted the power and duty of overall management of the industry. Any business engaged in the collection, transportation and disposal of solid waste must gain DEP approval of an official registration statement. Among other things, DEP is required to evaluate each applicant’s level of expertise and competence in the field. Once in receipt of a solid waste license, the licensee must obtain a “certificate of public convenience and necessity.”

In addition to this operational paperwork, every applicant must complete a detailed personal and financial disclosure statement, submit to a fingerprint check, and undergo a background investigation based upon the provisions of the A-901 Law, N.J.S.A. 13:1E-126 et seq., which is designed to preclude the participation of persons with known criminal records, habits and/or associations. The law states that no solid waste license shall be approved by DEP if any individual required to be listed in a disclosure statement, or otherwise known to have a “beneficial interest” in the business of the applicant, has been convicted of one or more of 22 enumerated offenses, has been identified as a career criminal offender or has an organized

crime affiliation.⁵ Scrutiny is given to all owners, managers, officers and other principals and to those generally referred to by the statute as “key employees.” These background investigations are assigned to State Police detectives who work in conjunction with supervisory personnel assigned to the Division of Law’s A-901 Unit. Finally, successful applicants for solid or hazardous waste transportation licenses are issued official DEP decals that must be affixed to all vehicles collecting and disposing of such waste in landfills and/or at incinerators.

The Commission examined the full landscape of solid waste licensing in New Jersey in recent years and found weaknesses that routinely conspire to defeat the intent of the law. On paper, the law itself remains flawed in critical ways that all but invite manipulation and exploitation by criminal and other unscrupulous elements. The most obvious of these statutory loopholes, of course, is the complete absence of any provision setting forth licensing requirements and regulatory standards for individuals and entities engaged in most forms of recycling. In practice, this and other statutory deficiencies are compounded by chronic resource inadequacies, poor inter-agency communications, and outdated information- and data-management systems that combine to impede the ability of regulators to maintain proper and appropriate control and oversight of the industry.⁶

⁵ The statute also covers persons who do not possess a reputation for good character, honesty and integrity and individuals who have pursued economic gain in an occupational manner or context in violation of criminal or civic public policies. See N.J.S.A. 13:1E-133c. and -133e.

⁶ In January 2010 and May 2011, the A-901 Law was amended narrowly to exempt from fingerprinting and personal disclosure requirements individuals who are directors or CEOs of secondary business activity corporations, publicly traded corporations or institutional investors, provided those persons are not A-901 applicants or licensees but are listed in the disclosure statement of an applicant or licensee. Also exempted were officers, partners and anyone holding an equity interest or debt liability in a secondary business activity corporation, publicly traded corporation or institutional investor, provided they have no responsibility for or control of the solid or hazardous waste operations of an A-901 applicant or licensee in New Jersey. These amendments embodied an effort to spur investment and did not disturb the key A-901 program components requiring disclosure and scrutiny aimed at barring criminal elements from the industry, which was the focus of this

Key areas of concern include the following:

- **The universe of individuals and entities requiring scrutiny for direct involvement in solid waste activity is too narrowly defined**

Convicted felons and other criminal elements continue to establish and maintain a presence in New Jersey's solid waste industry, in part, because the current A-901 Law requires background checks only for personnel of firms engaged in solid waste collection and disposal, and, among those firms, only for those who are owners, officers and others who fall in to the category of "key employee," a term defined by the statute substantively as follows:

[A]ny individual employed . . . in a supervisory capacity or empowered to make discretionary decisions with respect to solid waste or hazardous waste operations⁷

This definition fails to take into account the critical role played by sales personnel, who, among other things, can move blocks of commercial customers from one company to another and who often are in a position to engage in a range of manipulative schemes. Nor does the term "key employee" include individuals retained as consultants to solid waste companies. Even though they can carry out the same duties and responsibilities as if employed as company directors, operators, managers, and others empowered to make key decisions, there is no requirement that such consultants be revealed to, let alone vetted by, state regulators. Moreover, by officially incorporating themselves, consultants can step even further from scrutiny because corporate entities are not within the statutory meaning of the word "individual."

investigation. It should also be noted that this inquiry did not reveal any person to whom the amendments apply who lacked the requisite background integrity.

⁷ N.J.S.A. 13:1E-127f. Beyond key employees, background checks are also explicitly required for all persons holding any equity in or debt liability of any applicant solid waste business, and all of its officers, directors and partners.

It is also significant that the statutory definition of “key employee” bears no relationship to the magnitude of an individual’s compensation, thus leaving regulators unable to determine whether, or to what extent, unwarranted sums of money are being passed through rank-and-file employees and others not presently targeted for scrutiny.

- **Criminal elements are not explicitly prohibited from holding an indirect non-licensed stake in the solid waste industry**

Although state law purportedly bans members and associates of organized crime and convicted felons from holding even an indirect “beneficial interest” in licensed solid waste businesses, this prohibition is vaguely constructed and easily defeated by enterprising operators.

The Commission found instances, for example, in which individuals barred from direct participation in the industry due to criminal records and/or affiliations nonetheless have continued to profit from it as commercial landlords. Typically, they accomplish this by selling their businesses to adult children or other relatives, retaining ownership of the land and buildings from which they once functioned, and then collecting tribute and royalties in the form of substantial rental fees from the successor companies. The Commission also found that, aside from this and other consequences stemming from the “beneficial interest” provision’s definitional loophole, the provision has been inconsistently and narrowly applied.

- **Enforcement is undermined by inadequate resources, funding and personnel**

Approximately 1,300 licensed solid waste haulers operate in New Jersey today. Another 100 or so new businesses apply for licenses every year. Together, their fitness and integrity are overseen by an insufficient number of personnel, including support staff, currently assigned to the A-901 system.⁸ One measure of this stark imbalance is the fact that applicants may wait as long as a year or more from submission of licensing paperwork to completion of the vetting process, although, according to the Attorney General's Office, straightforward cases involving no organized crime ties may take between six and eight months to complete.⁹

As to license revocations, the Commission found a standard delay of more than three years from the time debarment proceedings are initiated until their completion. While the SCI is cognizant of the fact that such delays are exacerbated by time-consuming litigation of contested license revocations and debarments, insufficient staffing is clearly a factor impacting the timely resolution of such matters. Over the system's 25-year history, approximately 146

⁸ On February 14, 2011, the Attorney General's Office provided the SCI with data showing that the Division of Law's A-901 Unit then consisted of one full-time Deputy Attorney General (DAG), one full-time investigator serving as the A-901 administrator, assisted by one part-time DAG, two part-time paralegals and one legal assistant. Moreover, five other DAGs had been assigned two to three A-901 cases each in an effort to reduce the caseload. The SCI was further advised that the Division of State Police had devoted four troopers/investigators and six to eight civilian personnel to the program, and the DEP, as of that date, had provided one full-time staff member, two part-time supervisors, three part-time investigators and one part-time assistant. Recently, however, the Attorney General's Office updated the data concerning its staffing levels. As of late June 2011, four full-time attorneys, one investigator and one legal assistant were assigned to the A-901 Unit. Six attorneys and two paralegals were also assigned part-time to review A-901 license applications. The Commission has been told that the State Police A-901 staff consists of two sworn state troopers, seven civilian investigators and six part-time state employees who assist in performing background investigations.

⁹ It should be noted that when existing licensed companies are sold, purchasers may be allowed to continue their business operations during the pendency of the required background investigation.

individuals have been debarred from the industry for life or a term of years, with most of those sanctions having been imposed in the early years of the program.¹⁰

Regulatory backlogs and skeleton-crew staffing are not new in the A-901 scheme of things. They have been chronic problems throughout the system's history, except for a brief period in the mid-1990s when a dozen Deputy Attorneys General (DAGs), 20 DEP personnel and more than 50 State Police personnel were assigned full-time to A-901 in various capacities. Since then, available resources have declined dramatically through attrition and other exigencies, including the necessary transfer of personnel to homeland security duties in the aftermath of the September 11, 2001 terrorist attacks. Given the current licensing application and debarment backlogs, any sort of proactive investigative work to ensure ongoing compliance by existing licensees is out of the question and has been for some time.

These deficiencies are a reflection of the fact that the A-901 program has been underfunded for years. More than two decades ago, the SCI reported that, at the time, the program would require expenditures of at least \$4.8 million annually for optimal operation optimally. It has not been funded at that level since the mid-1990s. Indeed, budgetary resources available to the program have declined every year for the past decade, with expenditures dropping from \$2.7 million in FY 2001 to \$1.7 million in FY 2010. The program was also intended to pay for itself through licensing fees and other assessments, but that has

¹⁰ Debarment is only one method used to prevent unqualified individuals from participating in the solid waste industry. Since 2005, the Attorney General's Office has recommended to DEP that approximately 17 individuals be debarred, nine licenses be revoked and four applicants be denied licensure. Another 31 applicants withdrew after disqualifying information was discovered and presented to them, and 39 conditional licenses were issued requiring remediation of potentially disqualifying factors.

not been the case since before 2005 when fee revenue dropped precipitously as a result of actions taken in response to a decision by the State Supreme Court.¹¹

- **Duplication of effort and inefficient data management practices impede compliance enforcement**

Ensuring proper compliance by license-holders is challenging under the best circumstances, but New Jersey's solid waste regulatory apparatus has made it more difficult for all parties involved by maintaining a compliance bureaucracy that not only is duplicative but also impedes ready access to pertinent data and information.

Both DEP and the Division of Law rely almost exclusively on self-reporting by licensees. Once every two years, in order to retain truck decals, haulers are required to complete and submit a DEP questionnaire detailing, among other things, any changes in ownership, key employees and business location. Separately, licensed haulers annually must fill out a Division of Law registration update that essentially requests the same information.

Besides this duplication, considerable time and effort are devoted to gathering and cataloguing this information, which, as a matter of practice, rarely serves as a predicate for further investigation by A-901 authorities. Moreover, nonresponsive license-holders are treated leniently; in the case of the Division of Law registration updates, they may receive up to

¹¹ In American Trucking Associations, Inc. v. State, 180 N.J. 377 (2004), the Court held that New Jersey's annual hazardous waste transporter registration fees, embodied in N.J.S.A. 13:1E-18, as assessed against out-of-state transporters, violated the Commerce Clause of the United States Constitution. The fees were assessed on transporters that collected or delivered hazardous waste in New Jersey. Although fees associated with A-901 were not explicitly challenged by the plaintiffs, the Division of Law concluded they would be similarly vulnerable to legal challenge. As a result, officials reacted to the decision by ceasing to collect A-901 fees other than the initial filing fee. As a result, fees collected by the A-901 program fell from approximately \$2.9 million in 2004 to less than \$150,000 in FY 2010.

three delinquent-filing notices at taxpayer expense over a period of several months before any action is taken.

With regard to accessing information relevant to solid waste licensing and compliance, DEP and the Division of Law's A-901 Unit utilize substantially different methods to file and record data, even though they share responsibility for the system's operational viability. Furthermore, although the A-901 Unit uses computer technology for certain purposes, it stores pertinent information about licensed solid waste companies in paper file folders searchable only by hand. As a result, efforts to extract historically significant information or to determine troublesome patterns in the waste-hauling industry tend to be unnecessarily haphazard and time-consuming.¹²

- **Information is not adequately shared among the responsible regulatory agencies**

The use of different, sometimes incompatible, information-management systems points to a broader gap in communication and coordination between DEP and the Division of Law on A-901 matters. In one area critical to the industry's integrity – whether, and to what extent, outside individuals hold beneficial interests in licensed companies through the leasing of vehicles – the Commission found a significant breakdown in interaction between the two agencies.

¹² The Attorney General's Office recognizes that technological upgrades would enhance program efficiency and has informed the Commission that DEP recently began to upgrade its file management system. To date, however, the Division of Law is working with an antiquated system that has proven costly to replace.

DEP is responsible for identifying all vehicles and containers owned and/or leased by each licensee. At the Commission's request, the agency provided the names of approximately 180 solid waste haulers that had applied for and received official DEP decals for leased vehicles over a given period of time. Many had rented a sufficient number of trucks to meet a regulatory threshold that is supposed to trigger the filing of disclosure statements on the leasing firms and their owners, officers and key employees.¹³ Division of Law records covering the same period, however, showed just 10 hauling companies with leased vehicles. Further inquiry revealed that several firms listed in the Division's files had gone out of business, suggesting that its records were not only substantially incomplete but also outdated compared to the information in DEP's possession. That lapse between the two agencies had the effect of precluding the required background investigations and essentially left the system in the dark as to the integrity of scores of leasing firms doing business with solid waste licensees. A-901 officials have since taken steps to enhance the exchange of this and other vital information.

Also concurrent with the Commission's inquiry, the New Jersey Attorney General's Office, through the Division of Law's A-901 Unit, entered into a limited memorandum of understanding with New York City's Business Integrity Commission for the exchange of certain information relevant to the respective solid waste regulatory mission of both agencies.¹⁴

¹³ N.J.A.C. 7:26-16.6 requires such disclosure statements to be filed by A-901 licensees that lease 10 or more vehicles from a single entity, or when such vehicles constitute at least 20 percent of a licensee's entire vehicle fleet. Under these circumstances, a leasing entity is deemed to have a beneficial interest in the business of the licensee.

¹⁴ New York City's Business Integrity Commission (BIC), originally named the Trade Waste Commission, was established in 1996 to consolidate under one agency the responsibility for ensuring the integrity of the private solid waste hauling industry, as well as businesses operating in the City's public wholesale markets and the shipboard gambling industry. It consists of the Commissioners of the New York Police Department, the City Department of Investigation, the City Department of Consumer Affairs and the City Department of Small Businesses. With a current annual operating budget of \$7.28 million and a staff of more than 80, including NYPD

However, no such information-sharing relationship exists between solid waste regulators here and their counterparts in Pennsylvania, Delaware or any other jurisdiction outside New Jersey.

and Sanitation police officers, BIC licenses and oversees more than 1,300 active carting companies, including those engaged in recycling. Before issuing a license or registration, the agency conducts background investigations of the applicant business and its principals, including sales representatives, and also has the power to conduct criminal investigations of any entity under its regulation.

MANIPULATION OF THE SYSTEM

Utilizing surveillances, subpoenaed records and sworn witness testimony, investigators identified a range of ways in which systemic flaws in solid waste and recycling regulation have been exploited by individuals linked to organized crime or other criminal activities. The following examples are emblematic of the Commission's key findings:

The Survivor

If there were such a thing as a "poster boy" for longstanding gaps in solid waste licensing in New Jersey, Joseph Lemmo Jr. would be a leading contender for that dubious honor. Despite multiple criminal convictions and known ties to organized crime, Lemmo profited richly from the industry, operating for years in plain sight without intervention by state regulators.

In 1989, the SCI publicly identified Lemmo as a principal in a waste-hauling company that had its license revoked by the DEP based, in part, on the criminal conviction of its president. At the time, in a separate criminal matter, Lemmo was himself serving a lengthy sentence in federal prison for racketeering and conspiracy to distribute marijuana and other drugs. An associate of the Genovese LCN criminal organization, he also had a record of gambling, tax evasion and firearms convictions – background that, even under the most relaxed interpretation of the law, should have barred him from any involvement in solid waste in New Jersey.

In 1995, however, several years after being released from prison, Lemmo engineered a return to the industry through a back door of sorts. He established himself as the owner and operator of a truck-rental company, Di-Lex Trucking of South Plainfield, which secured a lucrative contract to lease tractor trailers to an East Brunswick company owned by his cousin. That firm, Pecaro Trucking, held an A-901 license to collect solid waste from transfer stations and transport it for disposal in landfills in New Jersey and Pennsylvania. At the height of their relationship, Di-Lex provided Pecaro Trucking with approximately 30 tractor-trailer units at any given time – approximately half the waste hauler’s entire truck fleet – and posted gross profits of more than \$1 million annually.

The extent of Lemmo’s involvement with Pecaro Trucking was such that, under state law, it constituted a “beneficial interest” in the waste hauler’s business – something that should have raised a red flag for regulators based upon Lemmo’s criminal background. It did not. Even though DEP was aware of Pecaro Trucking’s leasing of Di-Lex trucks, that fact was not conveyed to investigators in the A-901 Unit of the Attorney General’s Office. Indeed, it was not until 2008, based upon an SCI referral stemming from the findings of this inquiry, that action was taken by the State to sever Lemmo’s ties to the industry.

A review of internal A-901 records in this matter showed that DEP, as early as 1997, was in possession of the signed lease agreement between Di-Lex and Pecaro Trucking. The agency used that agreement as a basis for approving the issuance of official decals that Pecaro Trucking affixed to the rented trucks identifying them as vehicles in the *bona fide* service of a solid waste licensee. But neither DEP nor Pecaro Trucking ever notified the A-901 Unit that Di-Lex had

leased trucks to Pecaro Trucking. As a result, the only personnel ever subjected to background scrutiny were the key employees of Pecaro Trucking itself.¹⁵

Based upon the SCI's referral, the Attorney General's Office promptly brought legal action against Pecaro Trucking and Di-Lex, and both firms ultimately were required to sell their trucking operations. In 2009, Lemmo sold Di-Lex for \$3.3 million to TAC Transport of New Jersey Inc., a subsidiary of a larger firm based in Washington, D.C. However, he retained ownership of the South Plainfield property on which the former Di-Lex business office, garage and parking lot are located. Under the terms of a five-year lease, Lemmo rents these facilities to TAC for \$10,000 per month. Upon expiration of that lease in February 2014, Lemmo will be required to sell the property to TAC.

The Landlord

The SCI found numerous individuals with ties to organized crime, or who are convicted felons, or who are debarred from the industry, benefiting financially from interests in solid waste businesses, often as commercial landlords. Vincent Cirincione is one example of an individual debarred from the industry.

Cirincione was debarred from the solid waste industry by New Jersey authorities in 1995 for a period of five years after he was found to have been involved in the falsification of the weight of trucks at a trash transfer station. Though he never applied for reinstatement, Cirincione nevertheless continues to profit from the industry beyond the reach of A-901

¹⁵ Had Lemmo's involvement in the solid waste industry been reported to the A-901 Unit, investigators would have found that, in addition to his earlier criminal record, he was sentenced in October 2000 to 15 months in prison in Middlesex County on a conspiracy conviction.

regulators through an ownership interest in land occupied by a solid waste transfer station and recycling enterprise.

Cirincione's involvement was orchestrated in 2004 when he became a partner in Roosevelt Realty LLC, a firm established for the sole purpose of acquiring an 80,000-square-foot property owned by Joseph Lemmo Jr. on Roosevelt Avenue in South Plainfield. Upon purchasing the tract in 2005, Roosevelt Realty leased it to D&J Marangi Inc., owner of South Plainfield Transfer and Recycling Corp., an A-901 licensee. The Roosevelt Avenue property is Roosevelt Realty's sole asset.

Cirincione's partners in Roosevelt Realty include D&J Marangi's owners, one of whom also operates South Plainfield Transfer and Recycling and owns 90 percent of Marangi's stock. The lease with D&J Marangi/South Plainfield Transfer and Recycling is for a term of 20 years and carries annual rent of \$558,000. Cirincione's share is 35 percent – approximately \$200,000 a year.

Meanwhile, in a separate matter, a federal investigation of a South Plainfield Transfer and Recycling official led to charges that he accepted cash payments from a hauler contracted to transport solid waste and recyclables from the firm's transfer station to an incineration facility in Chester, Pa. The payments started at approximately \$20 per load transported and graduated to approximately \$100 per load. Overall, federal authorities said he received in excess of \$30,000 in cash through this hidden arrangement. In exchange for these payments, according to the indictment, he ensured that the hauler continued to receive business from the South Plainfield Transfer and Recycling. In February 2010, he pled guilty and was sentenced to ten months in prison and fined \$25,000.

The Accidental Debarment

Mack Service Co. is a Newark-based solid waste hauler and recycler that was established by a mob associate. The firm's top sales representative was a convicted felon also with ties to organized crime. None of this, however, impeded the firm's ability to operate under the auspices of an A-901 license for years – until happenstance prompted action by regulators.

Mack was incorporated in 1998 by Edward Aulisi who managed to obtain a waste-hauling license in spite of his longstanding association with elements of the Genovese LCN criminal organization. Although the firm primarily engaged in Class B recycling – the collection and removal of construction and demolition debris, activity which requires a state permit but no background integrity check – it was subject to A-901 vetting and licensing because it also held solid waste hauling contracts in a handful of North Jersey municipalities and did similar work at the Port of Elizabeth where Aulisi's father, for many years, had been president of Local 1235 of the International Longshoremen's Association (ILA). Employed as a salesman by Mack was Philip "Phil the Horse" Albanese Jr., a Genovese associate with a record of gambling convictions.

Unbeknownst to New Jersey solid waste regulators, Aulisi and Albanese shared a mutual and ongoing connection with a ranking Genovese member and crew leader, Michael Coppola, who, between 1996 and his arrest in 2007, was a fugitive from justice in a federal murder investigation. During the manhunt for Coppola, it was discovered that Albanese was helping to hide him from authorities.¹⁶ Indeed, in March 2008 Albanese pled guilty to charges of

¹⁶ Coppola was arrested in March 2007 after more than a decade on the run. Charged with racketeering, he was convicted in federal court in Manhattan in May 2008 and sentenced to 3½ years in prison.

conspiring to conceal a fugitive and was sentenced to 2½ years in prison. Had New Jersey's A-901 Law required Mack Service Co. to identify Albanese as its sales representative, his arrest on those charges, if not his earlier history of involvement with the mob, would likely have been noted by the State Police and reported to the Division of Law's A-901 Unit for further investigation.

Meanwhile, less than a week before Coppola's arrest, FBI agents overheard Aulisi in a wiretapped telephone conversation with him discussing waterfront labor union matters. Although Aulisi's ties to organized crime had been known to the Waterfront Commission of New York Harbor in 2007, it was unable to proceed with debarment proceedings against him until Coppola's trial in July 2009. Once the Waterfront Commission was free to use the evidence of the wiretapped conversation, it commenced proceedings that resulted in Aulisi's debarment from engaging in waterfront business in November 2009.

Officials in the Division of Law's A-901 Unit told SCI investigators that they learned of Aulisi's link to organized crime via unofficial "public reports" in 2008, a year after that information was in the possession of the Waterfront Commission. At that time, the A-901 Unit launched an action to debar him from New Jersey's solid waste industry. Those proceedings were resolved in December 2009 when Aulisi consented to his debarment for a term of five years and agreed to sell Mack Service Co.¹⁷

¹⁷ In January 2011, Aulisi was among more than 120 individuals arrested in a sweeping federal assault on organized crime in the New York/New Jersey metropolitan region. He has been charged with conspiracy and extortion in connection with a scheme to rip off the ILA membership.

The Hidden Hand

Gregory L. Goffredo, the son of a late organized crime associate, is profiting in the shadows of New Jersey's solid waste regulatory system. Commission investigators found that he holds hidden controlling interests in at least two solid waste hauling firms, including one based in South Jersey, and regularly provided cash and free health benefits to the current acting boss of the Philadelphia mob.

From all outward appearances, however, and as far as regulators are concerned, Goffredo is a merely a salesman employed by Kevco Disposal and Recycling Corporation, an A-901 solid waste hauler based in New Egypt, N.J., that trades under the name of All Star Recycling. In point of fact, the Commission has determined that Goffredo actually controls that firm, which is fronted by a relative who is president in name only.

Goffredo is also affiliated with Top Job Disposal Inc., a solid waste hauler based in Philadelphia, Pa. In 2001, Top Job was awarded a five-year contract to remove solid waste from the Philadelphia Produce Market. Renewed for five additional years in 2006, the arrangement pays the firm more than \$850,000 annually. That contract was negotiated by Goffredo's father, Mauro Goffredo, who died later in 2006. Fifty percent of the stock in Top Job, which was established in 2000, is in the name of another Goffredo relative, but, as with the true management arrangement in place at Kevco, Gregory himself runs the business. A review of records from a payroll service company used by Top Job revealed that Joseph Ligambi, acting boss of the Philadelphia LCN criminal group formerly run by the late Angelo Bruno, was on the firm's payroll from 2003, when Mauro Goffredo was in charge of the firm, until 2011, when the contract expired. Notwithstanding the change in management in mid-2006 following the elder

Goffredo's death, Ligambi continued to receive a salary and health benefits from Top Job. Between 2003 through 2009, Ligambi was paid \$1,000 a week by the company. Beginning in 2010, the weekly payments to Ligambi were reduced to \$500. The Commission's investigation found that Ligambi performed no official work for the company in exchange for these payments.¹⁸

Were Goffredo to be considered among Kevco's "key employees" subject to a background investigation during the A-901 licensing process, the firm likely would have been denied a license based not only on Goffredo's organized crime link but also because of his failure to pay fines assessed against an earlier company he controlled that was found to have violated the terms of its status as a solid waste self-generator exempt from licensing.

The Consultant

Frank J. Fiumefreddo Sr. is exactly the type of individual targeted for disqualification by the intent of New Jersey's solid waste licensing statute. He is a convicted felon who was booted from the industry for life by authorities in New York. But, undetected, Fiumefreddo Sr. crossed into New Jersey, avoided debarment here and continued to enrich himself by exploiting one of the system's most troublesome loopholes.

Early in his career in New York, Fiumefreddo Sr. partnered in various business ventures with a member of the Gambino LCN criminal organization. In 1990, when this individual was sentenced to 12½ years in federal prison on mail fraud and racketeering charges in connection

¹⁸ In May 2011, Ligambi and a dozen other members and associates of the Philadelphia-based LCN criminal organization were indicted on federal conspiracy, racketeering, extortion and other charges in connection with the operation of an illegal gambling business. Ligambi was arrested and is awaiting trial.

with illegal waste dumping in Staten Island, Fiumefreddo Sr. bought him out. He also helped the mobster's wife run a number of other solid waste hauling businesses in her husband's absence. Six years later, Fiumefreddo Sr. and others were indicted in Manhattan on enterprise corruption, criminal antitrust and related charges stemming from an investigation into organized crime's grip on New York City's waste-hauling industry by allocating and enforcing territorial "property rights." Fiumefreddo Sr. pled guilty, was sentenced to five years probation and fined \$235,000. In parallel administrative proceedings, he agreed to be debarred for life from the city's solid waste industry.

In 2001, the Fiumefreddo family set in motion a plan to take control of Central Jersey Waste & Recycling Inc., a financially troubled solid waste hauling business in Hamilton Township, N.J., that nonetheless possessed an A-901 license.

In February, 2001, Fiumefreddo's son, Frank J. Fiumefreddo Jr., formed a corporation, Premier Management Group, for the sole purpose of taking control of Central Jersey Waste & Recycling. The parties signed an agreement that gave Premier Management power to "direct, operate and manage" Central Jersey for 10 years for an annual "consulting fee" of \$96,000. In return, Premier Management agreed to lend hundreds of thousands of dollars to Central Jersey at 10 percent interest. Fiumefreddo Sr. was the source of most of that money, which was used by Premier Management to keep Central Jersey solvent until it became profitable.

Two years later, in February 2003, Fiumefreddo Jr. resigned as president and sole shareholder of Premier Management and gifted all of the consulting firm's stock to his father. The following day, Fiumefreddo Jr. agreed to buy all outstanding shares of Central Jersey. That April, three days after DEP approved this buy-out, Central Jersey borrowed another \$605,000 at

10 percent interest from Premier Management, now controlled by the elder Fiumefreddo. The closing on the sale of the Central Jersey stock took place on April 16, 2003. Thereafter, Fiumefreddo Jr. owned Central Jersey outright, but his father now had the authority to direct, operate and manage it as a consultant through Premier Management.

Prior to these developments, however, the New Jersey State Police had become aware of Fiumefreddo Sr.'s presence at Central Jersey and furnished a report to that effect to the A-901 Unit. Following up, DEP notified Fiumefreddo Jr. that it would re-issue the firm's license subject to certain conditions, including that Fiumefreddo Sr. not be employed by Central Jersey or have any "actual involvement in the business, direct or indirect, including but not limited to [his] acting as a contractor, consultant, or supplier of goods or services." The second condition required the repayment within 24 months of the loans to Central Jersey by Premier Management.¹⁹

Annual A-901 registration updates filed by Central Jersey after the family became involved in the company failed to report Fiumefreddo Sr.'s connection with the firm. Premier Management, meanwhile, was identified only as a "debt holder." The omission of Fiumefreddo Sr.'s central role, and the incomplete and misleading reference to Premier Management's core responsibility, were repeated in updates filed with the State in 2003, 2004, 2005 and 2006, each certified as true and accurate by Fiumefreddo Jr. Based on the Commission's findings, it is apparent that Fiumefreddo Sr. positioned himself within a consulting relationship so that his true hands-on role would not be disclosed. Furthermore, rather than functioning as an

¹⁹ Because its manpower is limited, the A-901 Unit typically would not know whether this condition was met. The Unit opens compliance investigations when it receives information that conditions on licensing are being ignored. Otherwise, it does not insure that a licensee is in compliance.

individual, he was operating Central Jersey in the guise of a one-man corporate consulting entity. Although key employees are required to be disclosed to the A-901 Unit, they are defined as “individuals” in the statute. Premier Management was not an individual, but rather a “business concern” under New Jersey law, even though Fiumefreddo Sr. individually managed Central Jersey through it.

In the 2007 through 2009 A-901 registration updates by Central Jersey, all reference to Premier Management was omitted, although Central Jersey’s attorney wrote to the A-901 Unit on November 21, 2008 and corrected the 2009 update to show Premier Management’s debt-holder status. The clear implication of those omissions was that the debt to Premier Management had been paid in full, as required by the DEP. In a letter to the SCI, dated June 7, 2010, commenting further on topics about which he had earlier testified under oath, Fiumefreddo Sr. confirmed the repayment of the loans and stated further that he received consulting fees totaling \$444,000 for management of Central Jersey.

Although he denied he was ever an owner, director or employee of Central Jersey and that Central Jersey ever paid him a salary, Fiumefreddo Sr. and his wife borrowed \$2.6 million toward the purchase of a \$4.1 million home in Spring Lake, N.J., in August 2006, on the basis of a residential loan application in which “Central Jersey/Premier” was listed as his employer and he was described as “President/Owner.” The application stated that his monthly income from the business was \$125,000 (annually more than \$1 million). Under oath, he testified that he did not know “where they got ‘Central Jersey/Premier,’” that it must have been a “typo error” and that his yearly income was substantially less than stated on the loan application. State

Department of Labor records, however, show that he was paid nearly \$1.5 million in wages by Premier Management from January 2003 through June 2009.

Also, in July 2008, Fiumefreddo Sr. was questioned by a New Jersey State Police trooper about an alleged act of lewdness for which he was issued a summons. The official report of that interview states that Fiumefreddo Sr. said he was employed by Central Jersey Waste & Recycling as a consultant. Under oath before the Commission, he testified that he told the trooper he was employed by Premier Management and could not explain why the police report mentioned Central Jersey.

In March 2009, the name of Fiumefreddo Sr.'s company was changed from Premier Management Group to Premier Food Waste Recycling Inc. At the present time, he is the sole owner/operator, with the title of president. The firm occupies the same offices on Stokes Avenue in Ewing, N.J., and specializes in the recycling of food waste from supermarkets. In May 2010, Premier Food Waste Recycling, Inc. filed an application for a separate A-901 license.

The Realtors

Joseph Virzi and Henry Tamily are convicted felons debarred from the solid waste industry in New Jersey, but they, and their business partner, Marino Santo, continue to profit from it as principals in a realty concern, which receives substantial rent from a solid waste and recycling enterprise that acquired their former trash-hauling businesses. Owners of this multi-firm enterprise include their adult children.

The Commission's inquiry also revealed evidence that the younger family members in this circumstance have engaged in the improper sharing of official DEP vehicle credentials. Known as "decal fronting," this practice enables unlicensed and out-of-state firms to dump solid waste in New Jersey landfills while avoiding both A-901 scrutiny and the payment of disposal fees assessed against legitimately credentialed haulers.

Once based in Manhattan where they prospered for decades under organized crime's property-rights system, Tamily and Virzi pled guilty in 1997 to charges of attempted enterprise corruption stemming from the first major investigation of mob control of New York City's garbage-hauling industry. They each received indeterminate prison sentences of 18 to 54 months and consented to lifetime debarments by the city. Santo, their business partner for nearly five decades, escaped indictment but nonetheless was also debarred by the city for life. In 1999, solid waste regulators in New Jersey debarred each of the men for terms of five years. None has sought to return to employment in the industry here.

New York authorities took the additional step of requiring Santo, Tamily and Virzi to sell their waste-hauling businesses. The buyer was Jem Sanitation Corp. of Lyndhurst, N.J., which paid \$900,000 in the combined purchase. Jem's parent company – Jem Carting Group Corp. – is owned and managed by a group that includes the adult children of Santo, Tamily and Virzi. It consists of various entities, including paper recyclers and solid waste haulers, tied to a common address – an industrial complex at Schuyler and Page Avenues in Lyndhurst. They pay combined rentals of \$120,000 annually to a landlord, Schuyler-Page Realty Co., which is owned by the three debarred haulers/parents. The property in question is the firm's only real estate holding.

* * *

In the course of examining this matter, investigators also discovered evidence that official truck decals explicitly issued by DEP to one licensed solid waste company in the Jem group – Jem Sanitation of New Jersey – have been provided for use by a cluster of other trash hauling firms under questionable circumstances. Those companies – Classic Recycling of New York Corp., Classic Demolition Co. Inc. and Classic Sanitation Co. Ltd. – are owned or operated by relatives of Marino Santo. Although these firms have administrative offices in Clifton, N.J., and park some of their vehicles in New Jersey, none is licensed to haul and dispose of solid waste in New Jersey. All of their customers are in New York City.

The decal-sharing arrangement ostensibly was effectuated through truck leasing agreements established in 2007 between Jem and the trio of Classic companies. But the Commission found that these agreements, though signed and seemingly official, were bogus documents used as a cover for enabling the Classic companies to bring solid waste from New York City into New Jersey and to dump it at landfills and incineration facilities here without a license, without A-901 integrity vetting and without having paid New Jersey licensing fees.

The Middleman

Steven G. Marcus is a convicted felon and an associate of the DeCavalcante LCN criminal organization, but neither of those items on his resume' has stopped him from making a small fortune as a salesman and broker of business in the underworld of New Jersey's solid waste industry.

In 2007, Marcus, acting as a broker, obtained a lucrative hauling contract for Vincenzo “Vincent” Graneri, owner/operator of I.T.L. Concrete Recycling, a Jersey City company that specializes in the collection and disposal of demolition and construction debris. Although the business is a DEP-approved Class B recycler of this material, A-901 background integrity checks are not required for Class B recycling.

Starting in November of that year, the job required I.T.L. to transport construction and demolition debris from excavation sites in New York City. Within weeks, law enforcement authorities were informed that two truckloads of the debris had been dumped illegally at a Conrail railway siding in Jersey City. Investigators for New Jersey’s Division of Criminal Justice subsequently determined that Graneri’s firm was responsible, and he was charged with criminal mischief with damage, an indictable offense.

Over the following six months, I.T.L. continued dumping truckloads of debris in New Jersey, but no further criminal charges were filed. Graneri, meanwhile, applied for and was granted pretrial intervention (PTI), which provides defendants, generally first-time offenders, with opportunities for alternatives to the conventional criminal justice process. In June 2008, he pled guilty as charged and was required to undergo probationary supervision for six months and to pay \$11,000 in restitution. He met those conditions, and the criminal mischief charges were dismissed. Meanwhile, DEP took no action with regard to I.T.L.’s Class B recycling permit.

For its work under this contract, I.T.L. was paid \$985,000 by two New Jersey companies, Ace Materials and Trucking, Ltd. and Roman Sand & Stone, LLC, both of which are owned by Anthony O’Donnell, a convicted felon who is an associate of the Gambino LCN criminal organization.

In 1993, O'Donnell was convicted of federal extortion charges and sentenced to 41 months in prison. In early 2008, he was among 61 persons indicted and arrested in a federal investigation of corruption in New York's construction industry. Many of O'Donnell's co-defendants in that case were members and associates of the Gambino, Genovese and Bonanno LCN criminal organizations. Later that year, he pled guilty in federal court in Brooklyn to conspiracy to extort money from construction companies and was imprisoned for a year and a day. He was released from custody in December 2009. More recently, in January 2011, O'Donnell was among more than 120 individuals indicted and arrested on multiple racketeering charges in a massive federal assault against organized crime in the New York/New Jersey metropolitan region.

Although not identified in corporate records as an owner of Ace Materials and Trucking or Roman Sand & Stone, this investigation found that Steven G. Marcus was a hidden partner in both companies.

* * *

Earlier in his career, Marcus was employed as a salesman for Circle Rubbish Removal, Inc., an A-901 licensed solid waste hauler with offices in Linden, N.J. As such, he was instrumental in obtaining an exclusive contract that paid Circle \$100,000 a month for more than three years to sweep the streets and haul garbage for Hunts Point Terminal Market in the Bronx, one of the world's largest food distribution centers. Circle, in turn, paid Marcus more than \$1.8 million in fees and commissions for obtaining that contract as well as for procuring other customers for Circle. Circle conveyed the money to him via highly unconventional means, using business checks payable to two corporations based in Clark, N.J. – Specchio

Carting and DAS Disposal Inc. – whose owner of record was listed as Marcus' wife. No checks were made payable to Marcus in his name, and no W-2 or 1099 federal income tax forms were issued to him or to the companies ostensibly owned by his wife.

During the period of Marcus's employment by Circle, the company was the victim of an extortion plot carried out by a member of the Genovese LCN criminal organization known as Michael "Hippy" Zanfardino. In 2004, Zanfardino pled guilty to federal racketeering activities in New York, including that extortion, and was sentenced to 15 years in prison. Shortly after Zanfardino's arrest, Marcus left Circle's employ. Gerard Ricciardelli, Circle's president, denied that he paid any proceeds from the Hunts Point work to Zanfardino. The Commission's investigation established that Marcus served as the conduit for monies received by Zanfardino.

Demolition Men

Emblematic of organized crime's intrusion into the business of collecting, dumping and recycling construction and demolition debris is the case of Vincent Alessi, the owner of a cluster of waste industry firms based in Bayonne, including Duramix Concrete Corp., Bayonne Durable Construction Co. and Hudson Keystone Express LLC.

Commission investigators found that, for the past several years, Alessi has had a close business relationship with a convicted racketeer and member of the DeCavalcante LCN criminal organization. In the mid-1990s, this individual was an official of Laborers' Union Local 1030. Since then, he has been involved in construction and trucking and in the brokering of construction and demolition debris-hauling jobs. Alessi's companies, among others, paid this

individual for work he sent their way, including jobs transporting debris from construction sites in New York and New Jersey for disposal elsewhere.

According to grand jury charges filed in New York in November 2009, a deputy chief of the New York City Department of Sanitation was bribed to rig bids in favor of Duramix Concrete Corp. The bribes were funneled through the deputy chief's father-in-law, a member of the Gambino LCN criminal organization. In 2010, that individual pled guilty to enterprise corruption, grand larceny and receiving bribes and was sentenced to two to six years in prison. Duramix Concrete Corp. pled guilty to bribery and was ordered to pay \$125,000 restitution.

Referrals and Recommendations

The Commission refers the findings of this investigation to the following agencies of government for whatever action is deemed appropriate:

- Office of the Attorney General of New Jersey
- Office of the United States Attorney for the District of New Jersey
- New Jersey Department of the Treasury
- New Jersey Division of Taxation
- U.S. Internal Revenue Service

* * *

Based upon the investigative record, the Commission makes the following recommendations for statutory and regulatory reform:

1. Strengthen and Expand Solid Waste Licensing Requirements

The statutory underpinning of New Jersey's solid waste licensing program, the A-901 Law²⁰, should be amended to require that a wider circle of individuals and entities who participate in the State's solid waste industry be subject to scrutiny prior to any action bearing upon the issuance and/or retention of a license.

Currently, the law requires background checks on all persons holding any equity in or debt liability of the applicant/business concern, and on all officers, directors, partners and key

²⁰ N.J.S.A. 13:1E-126 et seq.

employees of the applicant. While the statutory definition of “key employee” might seem sufficiently expansive – i.e., all managers and others empowered to make key decisions – the Commission’s investigation revealed that it is easily circumvented. Convicted felons and other criminal elements, including those tied to organized crime, continue to function within and profit from the industry beyond detection by regulators, in part, because they can cloak their presence by serving as sales personnel, brokers and consultants, or in other capacities. The A-901 Law is silent about the need to conduct background integrity checks of individuals in these positions even though, publicly and behind the scenes, they may carry duties and responsibilities critical to the daily operations of a licensee. Sales personnel, for example, can manipulate market shares by lining up commercial customers and moving them from one hauling company to another. Brokers acting as undisclosed go-betweens can arrange lucrative waste- and debris-hauling deals.²¹ Consultants can run companies from the outside with a hidden hand.²² By incorporating themselves, consultants who could not pass background integrity investigations remove themselves a step further from possible scrutiny because a corporate entity does not fit the statutory definition of an “individual.”

By way of contrast, recognizing the real and potential consequences of non-disclosure of such industry players, New York City’s solid waste regulatory system includes salesmen, consultants and brokers in the categories of individuals it requires to be vetted.

²¹ In an unreported New Jersey Appellate Division decision more than 20 years ago, the court ruled that brokers are “key employees” under the statute. However, that holding is inadequate to provide the public with proper notice of this determination. The Commission recommends that it be memorialized in the statute to give it the full force of law. Furthermore, DEP’s regulations should explicitly include these classes of personnel.

²² DEP’s solid waste regulations display an awareness of this statutory flaw but only warn of adverse consequences for non-disclosure, rather than classifying “consultant” as one of the classes of individuals who must be disclosed. See N.J.A.C. 7:26-16.23.

The Commission recommends that New Jersey adopt a similarly expansive definition of key employees subject to routine background integrity checks, including individuals doing business as corporate entities. Furthermore, the State should take the additional step of imposing an income threshold to require disclosure of any employees who, regardless of title or status, receive annual compensation in excess of \$75,000 or any employees who, in combination with a relative or relatives employed by the same firm, receive annual compensation in excess of \$75,000. This would ensure scrutiny of individuals who may be serving as conduits for the questionable diversion of substantial corporate monies.

2. Require Licensing for Individuals and Businesses Engaged in Recycling

Licensing requirements applicable to participants in New Jersey's solid waste collection and disposal industry – i.e., garbage carting – should be extended to cover those engaged in all forms of recycling as well.

When New Jersey adopted the Statewide Mandatory Source Separation and Recycling Act²³ nearly 25 years ago, the consensus was that recycling was not a lucrative enterprise and that incentives should be offered to encourage legitimate solid waste businesses to invest in the diversion of recyclable materials from landfills and incinerators. Those incentives included tax breaks and the deregulation of collection tariffs charged to solid waste haulers. Furthermore, the statute did not mandate new or additional licensing or background-check requirements for those who limit their industry involvement to recycling.

²³ N.J.S.A. 13:1E-99.11 et seq.

As the findings of this investigation have established, this hands-off regulatory construct has not kept pace with changing economic trends and the opportunities they provide for both legitimate and criminally tainted business interests. Commerce in recycled paper, for example, is now international in scope, and it continues to mature at that scale despite cyclical price and supply volatility. Similarly, a significant global “e-waste” market is emerging for recycled computer components and other electronic debris, some of it highly toxic. Meanwhile, vanishing landfill space and the increasing reclamation and redevelopment of “brownfields” have put a financial premium on the collection, disposal and re-use of contaminated soil and other debris.

Given the obvious environmental vulnerabilities and other consequences associated with improper handling of these materials, New Jersey should no longer allow itself to be used by unsavory recycling entrepreneurs as a haven from the sort of aggressive regulatory oversight that caused them to be debarred from the industry in other states, notably neighboring New York. At a minimum, New Jersey, like New York City, should put recycling on the same level as solid waste hauling and require strengthened and expanded vetting of individuals and entities involved in both. Closing that loophole here would diminish the risk of foul play by those having a propensity to cut corners with indifference to environmental concerns and the health and safety of the general public.

3. Restructure and Enhance Funding for Stronger Enforcement

The A-901 program is chronically and severely underfunded. Until 2005, it more or less paid for itself, but since then its fee collections have been equivalent to less than 10 percent of

the revenues necessary to fund it. This has to change. The key to restoring the A-901 program to self-sufficiency lies in providing the Office of the Attorney General with sufficient resources to do the job effectively, and a primary means to that end lies in collecting full reimbursement for the expense for background integrity checks. Instead, in reaction to significant litigation the State has voluntarily ceased to assess and collect those dollars.

In American Trucking Associations, Inc. v. State, 180 N.J. 377 (2004), the New Jersey Supreme Court held that New Jersey's annual hazardous waste transporter registration fees, embodied in N.J.S.A. 13:1E-18, as assessed against out-of-state transporters, violated the Commerce Clause of the United States Constitution. The fees were assessed on transporters who collected or delivered hazardous waste in New Jersey, based upon the number of tractors and trailers (or other transportation units). In its ruling, the Court acknowledged that it is constitutionally permissible for the State to assess reasonable charges, thus requiring transporters to shoulder their fair share of the costs incurred in regulating the hazardous waste industry. Nonetheless, the Court found that the flat fees subject to its review did not bear any relationship to a transporter's level of activity in New Jersey, were not fairly apportioned, and cost interstate haulers more per ton than they cost intrastate haulers. Therefore, the Court found that the fees placed an undue burden on interstate commerce and were unconstitutional. Although the A-901 solid waste fee structure was not challenged by the plaintiffs, the Division of Law, fearful that those fees were similarly vulnerable to legal attack, reacted by ceasing to collect all such fees beyond the initial application filing fee. As a result, fees collected for the A-901 program fell from an 11-year average of more than \$3.04 million a year to collections of about \$230,000 annually since.

The Commission finds no fault with the conclusion that, to the extent that annual post-licensing registration fees assessed against solid waste transporters mirrored those assessed against hazardous waste haulers, it may have been prudent to treat those fees as uncollectable burdens on interstate commerce. However, in view of the budgetary hardships facing New Jersey and the need to fund the A-901 program in a meaningful way, an attempt should be made to assess, collect and successfully defend additional regulatory fees intended to reimburse the State for expenses in performing follow-up integrity background checks on A-901 licensees. These fees should be tied directly to the duration and complexity of the specific vetting performed by the State and should be calculated on the basis of the A-901 Unit's estimate of the number of person-hours required to perform such activities, multiplied by the hourly rate for solid waste regulation services.²⁴ That is the formula set forth in N.J.A.C. 7:26-4.3(f)2 with respect to fees assessed against solid waste facilities.

In 1991, N.J.S.A. 13:1E-18 was amended to add provisions relating to fees and reimbursements to cover expenses incurred by any State agency in the performance of enforcing the A-901 Law, such as reviewing disclosure statements; monitoring post-licensing compliance, including special investigations; conducting investigations to verify claims of exemption from A-901; conducting pre-licensing investigations; securing confidential documents; and other functions involved in the program's administration. This statutory language was adopted prior to the American Trucking decision, and it remains in force today. The Commission finds that it provides a valid underpinning for imposing post-licensing fees to

²⁴ These factors are spelled out in N.J.S.A. 13:1E-18b, authorizing the collection of such fees.

cover the cost of vetting of so-called “Add-Ons”²⁵ and for any other A-901 vetting which the State is currently performing without charge.

Given the fact that about 100 new companies enter the solid waste industry yearly and that New Jersey currently regulates approximately 1,300 solid waste haulers, it is reasonable to anticipate that such businesses will continue to be bought and sold and that, in the case of existing businesses, changes will continue to occur in their boards of directors, officers, management and key employees. The state should find a way to ensure that it is reimbursed for the vetting of those new owners and other individuals.

The Commission also recommends that the State limit the effective term of A-901 licenses. Companies should be required to re-apply every two years – the same schedule maintained by regulators in New York City – and pay fees to defray the cost of integrity background investigations triggered by each re-application. Were New Jersey to follow New York City’s lead and require haulers to be re-licensed every two years at a cost of \$1,000 for each license, New Jersey would raise an average of \$650,000 annually, compared with its collections since 2005, which have been significantly less. Without adequate funding, those responsible for enforcing the A-901 program lack the ability to be more thorough and proactive.

²⁵ “Add-Ons” are individuals who join companies after they are licensed and are required to file personal disclosure forms and fingerprints.

4. Prohibit Debarred Individuals, Convicted Felons and Others of Questionable Character from Holding an Indirect, Non-Licensed Stake in the Industry

In addition to exploiting the A-901 Law's narrowly defined "key employee" provision to avoid scrutiny, individuals who would otherwise be deemed unsuitable for the industry have taken advantage of another regulatory gap which enables them to establish and maintain profitable, and lawful, hidden interests in the activity of licensed firms. The Commission's investigation has shown that this is frequently accomplished through manipulative vehicle-leasing arrangements and/or property rental agreements with legitimate licensees. By any measure, such schemes serve to undermine and subvert the clear intent of the law.

In order to close this loophole, the A-901 Law should be amended to provide a broad and explicit definition of what constitutes an indirect "beneficial interest" in a licensed solid waste and/or recycling entity. The holder of that interest would then be subject to all proper and appropriate disclosure and background integrity-check requirements. In addition to inserting that definition into the language of the statute, it should also, for purposes of regulatory guidance, be added to Subchapter 16 of Title 26, Chapter 26 of the New Jersey Administrative Code.

5. Centralize and Streamline State Oversight and Enforcement

The very nature of collecting, handling, recycling and/or disposing of solid waste implicates a host of environmental concerns, and so it stands to reason that the framers of New Jersey's Solid Waste Management Act decades ago placed licensing authority over participants in the industry within the Department of Environmental Protection. In practice, however, DEP

relies heavily, if not entirely, upon the law enforcement community, in particular the Office of the Attorney General (Division of Law) and the State Police, to provide meaningful substance to that licensing process through criminal background checks and other vetting aimed at keeping the industry clean. The findings of this investigation demonstrate that the time is ripe to reconsider the wisdom and efficiency of this tri-partite licensing, oversight and enforcement structure.

Thus, the Commission recommends that responsibility for all A-901 licensing matters be consolidated within the Office of the Attorney General and administered by one leadership team with a dedicated in-house staff of attorneys, investigators and personnel knowledgeable about solid waste management and recycling. This centralized entity should have the ability and the authority to draw upon and utilize personnel and expertise from agencies across the government bureaucracy, including the State Police and DEP. This construct would streamline the licensing process without foreclosing continued participation by either of those agencies. It would also leave intact the vital role played by DEP with respect to the many other areas of solid waste regulation apropos of environmental protection, including establishing a statewide solid waste management plan, approving and supervising solid waste disposal facilities and many related responsibilities.

Furthermore, the existing A-901 records-management apparatus should be overhauled and reorganized to provide regulators with more effective and efficient access to information on the industry, its license holders and its license applicants, and to afford appropriate sharing of such information among relevant government agencies in New Jersey and beyond its borders. The Division of Law's A-901 Unit and DEP utilize two different computer systems.

Consolidation of New Jersey's solid waste functions under a single entity would have the salutary benefit of eliminating bureaucratic duplication in the solicitation and collection of updated licensee information on an annual or bi-annual basis. It would also free up personnel to take more timely action against licensees that are delinquent in filing.

A sound blueprint for effective centralized authority is embodied by New York City's Business Integrity Commission (BIC). Established in 1996 to police the city's solid waste industry in the wake of multiple investigations into widespread intrusion by organized crime there, BIC has authority to license and/or debar individuals or entities engaged in every major component of the industry. While New Jersey limits scrutiny to solid waste haulers, BIC oversees the integrity of both trash-hauling and recycling, as well as the activities of self-generators, waste brokers and those involved in the removal or disposal of construction and demolition debris.

With a staff of more than 80, BIC draws personnel and expertise from a variety of agencies, including the New York City Police Department and the city's departments of Sanitation, Investigation, Consumer Affairs, and Small Business Services. The workforce is housed in one location and consists of an executive staff, a licensing staff and enforcement and investigative teams. Its employees are within easy access of one another and discuss matters of common interest informally on a daily basis. BIC's leadership told the Commission that centralization is vital to the agency's regulatory effectiveness because it enables the staff to interface on a daily basis, to share intelligence and to work jointly and closely to resolve problems.

BIC's current annual budget of \$7.2 million is underwritten by New York City, but approximately two-thirds of that sum is recouped by the city through fees and fines collected by the agency. BIC also takes steps to ensure that applicants for licenses do not owe monies to any government entities (e.g., back taxes). Moreover, New York licensees that fail to promptly report any changes in ownership and key employees are issued notices of violation and are fined.

6. Require Effective Sharing of Information with Neighboring Jurisdictions

As noted earlier in the text of this report, during the course of the investigation officials assigned to New Jersey's A-901 program entered into a memorandum of understanding to exchange pertinent information with their counterparts at New York City's BIC. While this was an important first step toward mutual assistance between neighboring jurisdictions, the MOU should be formalized through the adoption of standard operating procedures setting forth specific types of information to be shared, as well as the circumstances and mechanism through which that can be accomplished most effectively and efficiently. For example, if New York officials act to debar an individual or company, New Jersey authorities should be notified immediately. Similarly, if a New Jersey licensee is implicated in criminal activity, that information should be relayed automatically to New York's BIC, particularly if it involves circumstances that could lead to a disqualification from the solid waste industry. To the extent possible, organized crime intelligence bearing on the industry should also be shared on a regular basis. In the long run, this system of solid waste "information reciprocity" should become uniform among all jurisdictions throughout the region, patterned after post-9/11

homeland security intelligence- and information-sharing protocols.²⁶ Such interstate cooperation would not only enhance New Jersey's regulatory efforts but also those in other jurisdictions.

7. Centralize Debarment Lists

Various state agencies maintain lists delineating individuals and corporate entities that have been debarred from participation in a number of regulated industries apart from solid waste, such as construction, the casino gaming industry and transportation. These individual agency debarment lists, however, have not been consolidated into a list maintained centrally by the Department of the Treasury.²⁷ As a result, there is no established mechanism to ensure that information on the suitability of business entities is shared across the regulatory bureaucracy for purposes of determining whether it is appropriate for a licensee or permittee whose credentials have been pulled in one area to continue to participate in another. Thus, rules should be established to ensure that debarment information is forwarded to the Treasurer for inclusion in the central debarment list so that the status of persons and businesses deemed unfit to work under one agency's purview is made known across-the-board.

²⁶ BIC officials told Commission staff they have no objection to the establishment of such a reciprocal arrangement with New Jersey. BIC already automatically exchanges industry-related information with its counterpart in Westchester County, N.Y.

²⁷ DEP forwarded debarment data to the Treasurer until about 1997, but when the bulk of the administrative duties of the A-901 program were transferred to the Division of Law in accordance with a memorandum of understanding between it and DEP, the flow of debarment data to Treasury stopped.

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APPENDIX

N.J.S.A. 52:9M-12.2 provides that:

- a. The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following materials are responses submitted pursuant to those statutory requirements.

CERTIFICATION OF VINCENT ALESSI

I, Vincent Alessi, of full age, hereby certify and say:

1. I am an owner and manager of Duramix Concrete Corp. ("Duramix"), Bayonne Durable Construction Co., Inc. ("Bayonne Durable"), and Hudson Keystone Express LLC ("Hudson"). This certification is based on my personal knowledge and is submitted in connection with a letter dated September 26, 2011 from my counsel, Michael B. Himmel, Esq. and Christopher S. Porrino, Esq., to Robert B. Kurzweil, Esq., Counsel to the State of New Jersey Commission of Investigation (the "Commission"), in response to Mr. Kurzweil's letter to me dated August 31, 2011. I have reviewed the September 26 letter from Mr. Himmel and Mr. Porrino, and agree with and approve its contents.

2. Duramix Concrete Corp. ("Duramix") and Bayonne Durable Construction Co., Inc. ("Bayonne Durable") are not in the business of "collecting, dumping and recycling [of] construction and demolition debris." Duramix's sole business is related to the manufacture and distribution of redi-mix concrete, and the company has closed its doors.

3. Duramix, Bayonne Durable, and Hudson Keystone Express LLC ("Hudson") do very little, if any, public work and, to my knowledge, none of the persons or companies with whom Mr. Alessi or his companies did or do business are or were members of LCN or any other criminal organization.

4. The businesses in which I am involved are among the largest employers and real estate taxpayers in Bayonne and the surrounding area. The businesses own and operate a significant amount of commercial space, including a 300,000 square foot retail shopping mall, with nationally-significant tenants who employ hundreds, if not thousands, of employees in the state.

5. Moreover, the businesses currently have more than \$40 million in financing from various large lenders and financial institutions that will be jeopardized by the Commissions' proposed report. In addition, publication of the proposed report will impair the

businesses' ability to obtain new financing. The effect would be dramatic and devastating, with the businesses likely to experience a loss of existing tenants and an inability to attract replacements. In such event, employee layoffs undoubtedly will follow.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I may be subject to punishment.

A handwritten signature in cursive script, followed by the date "9/26/2011". The signature is written over a horizontal line.

Date: September 26, 2011

Vincent Alessi

RECEIVED

305 Ocean Avenue
Spring Lake, New Jersey 07762

2011 SEP 16 PM 2: 25

STATE COMMISSION OF
INVESTIGATION

VIA Hand Delivery

September 16, 2011

Patrick E. Hobbs - Chair
Robert J. Martin - Commissioner
Todd R. Caliguire - Commissioner
State of New Jersey
Commission of Investigation
28 West State Street
P.O. Box 045
Trenton, New Jersey 08625-0045

re: Notice of Proposed Report
Dissemination No. 11-08-008

Dear Commissioners:

I am writing in response to the August 31, 2011 letter to me enclosing a *slightly* revised excerpt from the State Commission of Investigation's ("SCI") upcoming report regarding the solid waste and recycling industries. Unfortunately, my August 4, 2011 letter and accompanying Certification (see attached copy) correcting a number of **factual errors** was completely ignored. In addition, it appears that the SCI has completely ignored and failed to include in its report a number of mitigating facts which would paint a much more accurate picture of my background and history in the solid waste and recycling industry. Even more frustrating is the fact that, by making some very minor modifications to the report, the Commission seeks to exclude my August 4, 2011 letter and accompanying third-party Certification from the appendix to its upcoming Report. These responses (both this letter and my August 4, 2011 letter with accompanying Certification) must be included in the final report pursuant to N.J.S.A. 52:9M-12.2.

The modified excerpt continues to contain the following factually inaccurate statements:

1) "Fiumefreddo, Sr. partnered in various business ventures with a member of the Gambino LCN criminal organization." As stated in my August 4, 2011 letter, I partnered in a **single venture** with an individual later convicted of racketeering; I was not involved in those

racketeering activities nor was I charged in connection with the activities resulting in a criminal sentence for this individual. This inaccuracy must be corrected.

2) "In 1990, when this individual was sentenced ... Fiumefreddo Sr. bought him out." As stated in my August 4, 2011 letter, I purchased my interest in this individual's companies five years later, from the federal government receiver operating the assets, and only after an extensive background check. This inaccuracy must be corrected.

3) I never helped a "mobster's wife" run "a number of other solid waste hauling businesses in her husband's absence." This inaccurate statement must be deleted.

If there is evidence that any of these statements are true, I demand that this information be provided to me before being published with the full imprimatur of the government. Furthermore, pursuant to N.J.S.A. 52:9M-12.1 e., I request the opportunity to meet in private with the Commission to testify in my own behalf as to matters relevant to the testimony that forms the basis for these statements and the balance of the report excerpt concerning me, as the excerpt in its entirety contains statements that adversely affect my reputation and tend to defame me.

In addition to the simple factual errors noted above that require correction, I especially take issue with the sentence in the report that states "[t]he omission of Fiumefreddo Sr.'s central role, and the incomplete and misleading reference to Premier Management's core responsibility, were repeated in updates filed with the State in 2003, 2004, 2005, and 2006." After the NJDEP re-issued the solid waste license to Central Jersey Waste in December 2004, with a condition that I not be involved as an employee, contractor, etc. I was not involved in the management of the company. From that point forward, I accepted no salary, no management fees, and no other compensation. Furthermore, I shifted my attention to my own business - food waste recycling - leaving my son to operate Central Jersey Waste on his own. The Commission concluded that I "positioned [myself] within a consulting relationship so that [my] true hand-on role would not be disclosed." This is quite simply, not true. While I did play a hands-on role with the company prior to the end of 2004 it was with the full knowledge of the State of New Jersey. Once the State forbade this activity, my involvement ceased, as both of my sons will attest.

From December 2004 forward, the only payments I, or my company, received from Central Jersey Waste was re-payment of the loans I made to Central Jersey through Premier Management. Any consulting fees paid to Premier Management Group, Inc. ceased at the end of 2004; since the SCI has a copy of all of the accounting books and records of Central Jersey Waste from 2000 to 2010, it should be able to readily verify that fact.

To the extent that the Commission finds it necessary to state that "Premier Management was not an individual, but rather a 'business concern' under New Jersey law, even though Fiumefreddo Sr. individually managed Central Jersey through it" the Commission should state that this consulting role ceased in December 2004 when the License required it. In addition, when the Commission makes the statement, correctly, that I received consulting fees totaling \$444,000, it should be clarified that these payments occurred prior to December 2004. To omit that fact

September 16, 2011

misleads the reader, the public citizens of New Jersey, to the incorrect conclusion that the fees continued when the license did not allow it. The citizens of New Jersey should not be so misled.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Frank Fiumefreddo Sr.", written in black ink.

Frank Fiumefreddo Sr.

305 Ocean Avenue
Spring Lake, New Jersey 07762

VIA Hand Delivery

August 4, 2011

Patrick E. Hobbs - Chair
Robert J. Martin - Commissioner
Todd R. Caliguire - Commissioner
State of New Jersey
Commission of Investigation
28 West State Street
P.O. Box 045
Trenton, New Jersey 08625-0045

re: Notice of Proposed Report
Dissemination No. 11-07-005

Dear Commissioners:

I am writing in response to the July 18, 2011 letter from Robert Kurzweil, received by me on July 21, 2011 regarding the State Commission of Investigation's ("SCI") investigation of the solid waste and recycling industries and the excerpts of the Commission's Report that pertains to me.

First and foremost, I want to respond to the allegations and characterization of my business interests in New York. It should first be noted that my mother-in-law, Jennie Paccione, and I inherited our interests in the business ventures (principally Mike Paccione Carting, Inc.) from my father-in-law, Mike Paccione. The individual who was sentenced to 12-1/2 years in prison was Mike Paccione's brother. Never have I been identified or charged as a member or associate of any criminal organization. The charged individual and I entered a single joint venture, A&F Carting Co, in 1987, which consisted of one garbage route, not several companies as referred in the SCI Report. At the time, the individual was licensed by the Trade Waste Commission and lawfully operated in New York City.

While the report simply states that after the individual was sentenced to prison I "bought him out," the SCI conveniently omits important facts. The businesses that I bought included National Carting and Stage Carting - each of which were forfeited to the United States Government upon the individual's conviction for illegal dumping. It was five years later, that I purchased these companies - not from the individual, but from the United States government, but only after a thorough background check and approval process by the government. In the interim, the companies were operated by US Trustee and Receiver Barrington D. Parker, now a Judge on the Second Circuit Court of Appeals. I operated these companies under a federal monitorship that reviewed all activities and expenses of the companies. No issues were taken with my operation

August 4, 2011

of the companies and, following the incident referred to below, I was allowed to sell the companies to Waste Management, Inc. and re-pay the companies' debt to the US government. It is highly unlikely that such treatment would have been afforded "the type of individual targeted for disqualification" under New Jersey's solid waste licensing scheme.

The SCI report recounts that I was indicted on charges of enterprise corruption, criminal antitrust, and related charges stemming from an investigation into organized crime's grip on New York City's waste-hauling industry. The report then indicates that I "pled guilty." It should be made clear that I pled guilty to a single count (not the full panoply of charges) of violating the New York's criminal anti-trust law pursuant to an agreement with the New York County District Attorney. Furthermore, it should be noted that I completed my probationary sentence and paid the fine without incident. In connection with this incident the report correctly notes that I agreed to be debarred for life from the city's solid waste industry, not "booted from the industry for life by authorities in New York" as stated in the sensationalized introductory paragraph to this section of the SCI's report.

A full review of the case would also shed light on the fact that I was not charged for any conduct relating to the operation of my own companies, but rather had been acting to aid my wife's aunt (wife of the incarcerated individual) who owned the company, Yankee Continental Carting Inc. ("Yankee"), and that the charged conduct related to the alleged sale of a single garbage stop. At no time was I helping a "mobster's wife" run a number of solid waste hauling businesses. It was conceded by the District Attorney at the time that I received no economic benefit from the sale of the stop and that I had no interest in Yankee. Furthermore, at the arraignment on this case, the District Attorney represented that there were no wiretap conversations of me speaking with any other individual in the garbage business, nevermind any organized crime associates.

I also wish to comment on the characterization of my son's entry into the solid waste hauling business in New Jersey. It is true that I was the source of funds in Premier Management that loaned money to Central Jersey Waste to keep it afloat until it could be made profitable. It is also true that, during 2001 to 2003 I performed management consulting services to Central Jersey through Premier Management. However, upon my son's taking ownership of the company in 2003, this was done with full disclosure and knowledge of the licensing authorities in the State of New Jersey. Furthermore, it was my son's attorney's actions, at my direction, that led to the New Jersey State Police becoming aware of my involvement at Central Jersey. During 2002 my son's then-attorney, John Purves, advised that in order for my son to purchase Central Jersey Waste, transactional approval from the New Jersey DEP would be required. Therefore, on February 25, 2003, just one week after the Stock Purchase Agreement between Frank Fiumefreddo, Jr and Alex Abdalla was signed, approval from the State of New Jersey was sought. The Stock Purchase Agreement, which was provided to NJDEP, recounts the Management and Loan Agreement, and contemporaneous conversations between my son's attorney and the Attorney General's office advised the AG's that I was the source of the funds for the loans to Central Jersey Waste. In fact, John Purves, Esq., had advised the Attorney General's office of the Management and Loan Agreement prior to the request to the NJDEP for approval of the transaction. These facts are certified to by Mr. Purves in the attached Certification, provided to me as part of my review of the allegations in the SCI report.

August 4, 2011

Furthermore, once the Central Jersey license was re-issued in December 2004, I ceased to have any involvement in the business, consulting or otherwise, as required in the conditions of licensure attached as part of the approval. From that point forward, my son, Frank Fiumefreddo, Jr., later joined by his brother Michael, ran the business of Central Jersey Waste.

The SCI report states that "[t]he omission of Fiumefreddo Sr.'s central role" in the management of Central Jersey Waste. There was no role, nevermind a central role, or any "hands-on role" played by me after December 2004 in Central Jersey Waste, as required by the State's approval and Conditions of Licensure.

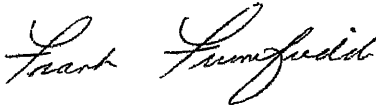
As previously explained - the Spring Lake application was completed by the mortgage broker, and unfortunately not carefully reviewed by me. While I take ultimate responsibility for the application, the implication that I was employed by Central Jersey and that I made more than \$1 million per year was in error. In fact, as noted by the SCI report itself, the application reported my employer as "Central Jersey/Premier". My employer at the time was Premier - Premier Management Group, Inc. The \$1.5 million in wages reported from January 2003 through June 2009 were paid by Premier Management from the separate recycling business operated by me - and were not paid by Central Jersey.

Furthermore, the New Jersey State Police trooper inaccurately reported my employer as Central Jersey Waste & Recycling - likely after viewing the registration of the car I was a passenger in at the time - my son's company car.

In May 2010 Premier Food Waste Recycling, Inc. (formerly known as Premier Management Group, Inc.) applied for an A-901 license. PFWR currently operates its food waste recycling business in Pennsylvania and New Jersey. Business growth, however, is hampered in New Jersey because PFWR cannot perform the full panoply of services, including solid waste collection, like it can in Pennsylvania. PFWR has its solid waste collection license in Pennsylvania, and I would like to be able to perform those services in New Jersey as well.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Respectfully submitted,



Frank Fiumefreddo, Sr.

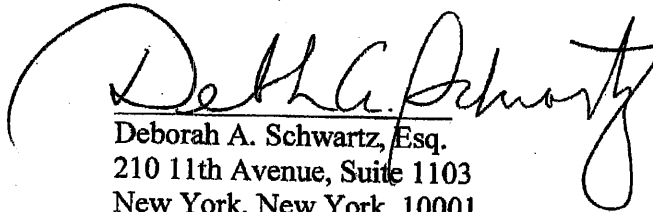
Certification of Deborah A. Schwartz, Esq.

I, Deborah A. Schwartz, Esq., being of full age, do hereby certify as follows:

1. I am an attorney-at-law of the State of New York and have reviewed the materials provided to Frank Fiumefreddo by the New Jersey State Commission of Investigation regarding his involvement in the solid waste industry in New York and New Jersey. I represented Frank Fiumefreddo in 1996 and 1997 in the matter of The People of the State of New York v. Adrienne Paccione, Frank Fiumefreddo, Yankee Carting Co., Inc., Yankee Continental Carting Corp. and therefore have personal knowledge of the facts relevant to certain of the provided excerpts of the State Commission of Investigation report.
2. Mr. Fiumefreddo pleaded guilty to one count of violating the New York's criminal anti-trust law pursuant to an agreement with the New York County District Attorney that he would be sentenced to probation, a fine and a permanent bar in New York from re-entering the garbage business. Mr. Fiumefreddo completed his probationary sentence and paid the fine without incident. Moreover, it was conceded at the time, 1996, that Mr. Fiumefreddo was not charged for any conduct relating to the operation of his own companies, but rather had been acting solely to aid his aunt who owned the company, Yankee Continental Carting Corp., and the charged conduct related to the alleged sale of a single garbage stop. It was also conceded that Mr. Fiumefreddo received no economic benefit from the sale of the stop and that he had no interest in Yankee, the subject company. Furthermore, at the arraignment on this case, the District Attorney represented that there were no wiretap conversations of Mr. Fiumefreddo with any other individual in the garbage business.
3. Mr. Fiumefreddo got his start in the garbage business in 1971 through his wife's inheritance of a 50% interest in Mike Paccione Carting, Inc. from his father-in-law, Mike Paccione. His mother-in-law, Jennie Paccione, inherited the other 50%; Mr. Fiumefreddo later purchased his mother-in-law's interest. The individual that received a 12 year sentence for illegal dumping was Mike Paccione's brother and had no connection with Mike Paccione Carting, Inc. That individual owned and operated National Carting and Stage Carting.
4. Mr. Fiumefreddo has never, to my knowledge, been identified as a member or associate of organized crime.
5. Five years after National Carting and Stage Carting were forfeited to the United States government and operated by US Trustee and Receiver Barrington D. Parker, now a Judge on the Second Circuit Court of Appeals, upon the conviction of the owner, the companies were purchased by Mr. Fiumefreddo and operated as Hi-Tech Recycling, Inc. In order to purchase the companies from the government, Mr. Fiumefreddo underwent a thorough background check and was approved by the United States government to make the purchase. He operated the companies under a federal monitorship that reviewed all activities and expenses of the companies. No issues were taken with Mr. Fiumefreddo's operations of those companies and, after five years, he sold the company to Waste Management, Inc. pursuant to a deal that paid off all debts to the US government.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: August 3, 2011



Deborah A. Schwartz, Esq.
210 11th Avenue, Suite 1103
New York, New York 10001

RECEIVED

37 Amsterdam Place
Staten Island, New York 10314

2011 SEP 16 PM 2: 25

STATE COMMISSION OF
INVESTIGATION

VIA Hand Delivery

September 16, 2011

Patrick E. Hobbs - Chair
Robert J. Martin - Commissioner
Todd R. Caliguire - Commissioner
State of New Jersey
Commission of Investigation
28 West State Street
P.O. Box 045
Trenton, New Jersey 08625-0045

re: Notice of Proposed Report
Dissemination No. 11-08-009

Dear Commissioners:

My name is Frank Fiumefreddo, Jr. - President and sole owner of Central Jersey Waste & Recycling, Inc.

To insinuate that following December 2004 that my father ran the company through Premier Management impugns my reputation, as a law abiding citizen and as a businessman. I take my legal obligations seriously. I run a company with over 100 employees, servicing 25 municipalities in a demanding environment. I do this through diligence, hard work, and with the assistance of a skilled, loyal and hardworking workforce - one that has not included my father since the end of 2004. If you do not believe that this is true, I invite the Commission to call our customers - municipal and private - and ask who the managers and employees of the Company are. You will find that not a single customer will identify my father.

Yes, it was important to receive his timely capital infusions to keep the company afloat. Yes, we took longer to pay back that money than requested by the Department, primarily due to the number and complexity of the legal entanglements left by the prior owner Alex Abdalla. However, since I took over the company we have more than doubled our employees, trucks and municipal contracts.

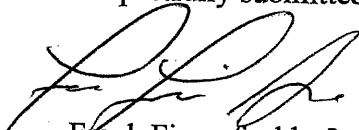
September 16, 2011

There was no "incomplete and misleading" reference to Premier Management in my Annual A-901 filings. I do admit, and take ultimate responsibility for, the errors, which were promptly corrected when uncovered. However, during this time period the reference to Premier as a debt holder is both complete and accurate. As I stated in my August 4, 2011 letter, there was no 'central role' played by my father after 2004 - and I demand that you provide any evidence to the contrary to me. During 2003 and 2004, prior to the License Conditions being imposed, my father did assist in managing the company, primarily on the financial side, while I stabilized and grew the operations. However, this assistance ceased at the end of 2004 as required by the State of New Jersey when it re-issued a solid waste license to Central Jersey Waste with me as owner and officer.

In light of the misleading references outlined above, as previously outlined in my August 4, 2011 letter to the Commission and accompanying Certification (copy attached), and pursuant to N.J.S.A. 52:9M-12.1 e., I request the opportunity to meet in private with the Commission to testify in my own behalf as to matters relevant to the testimony that forms the basis for these statements and the balance of the report excerpt concerning me, as the excerpt in its entirety contains statements that adversely affect my reputation and tend to defame me.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Respectfully submitted,



Frank Fiumefreddo Jr.

287 Ardsley Street
Staten Island, New York 10306

VIA Hand Delivery

August 4, 2011

Patrick E. Hobbs - Chair
Robert J. Martin - Commissioner
Todd R. Caliguire - Commissioner
State of New Jersey
Commission of Investigation
28 West State Street
P.O. Box 045
Trenton, New Jersey 08625-0045

RECEIVED
2011 AUG -5 PM 2: 17
STATE COMMISSION OF
INVESTIGATION

re: Notice of Proposed Report
Dissemination No. 11-07-005

Dear Commissioners:

I am writing in response to the July 18, 2011 letter from Robert Kurzweil, received by me on July 21, 2011 regarding the State Commission of Investigation's ("SCI") investigation of the solid waste and recycling industries and the excerpts of the Commission's Report that pertains to me.

In 2001 I went to work for Central Jersey Waste & Recycling, Inc., looking for an opportunity to organically grow a solid waste and recyclable collection business in the State of New Jersey. At that time, my father provided financial backing to keep the company afloat, but I was the hands-on administrator and manager at the company. In late 2003 and early 2004 when it became apparent that the then-owner Alex Abdalla did not have the skills, desire or financial wherewithal to run the company, we discussed my ability to buy the company stock from Mr. Abdalla. At that time, I hired John Purves, Esq., an attorney experienced in the solid waste industry to assist me with the myriad regulatory and other issues associated with the transaction.

Once it was determined that I would buy the company, I no longer needed to operate through Premier Management Group, Inc., and therefore gifted the shares of that company to my father. This allowed him to be repaid all of the money he lent to Central Jersey Waste through Premier Management, and allowed me to focus exclusively on running Central Jersey Waste. In addition, my father then focused on his food waste recycling business, managed through Premier Management Group, Inc., which had no connection to Central Jersey Waste's operations. Although I did continue to honor the Management Agreement and pay that fee through the end

State Commission of Investigation
Page 2

August 4, 2011

of 2004, once the NJDEP re-issued the Central Jersey Waste license with the restrictions, the Management Agreement was terminated and no further fees were paid.

At no time since December 2004, when the license restrictions were put in place, has my father, Frank Fiumefreddo, Sr. played any role in the management of Central Jersey Waste. Central Jersey Waste has been managed by me, with assistance from my brother Michael.

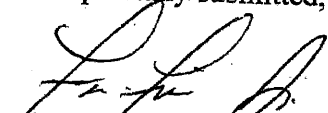
Furthermore, as set forth in the attached Certification of Mr. Purves, it was Central Jersey Waste that brought to the Attorney General A-901 Unit's attention that Frank Fiumefreddo, Sr. was the source of the loans made through Premier Management Group, Inc. to Central Jersey. This occurred in late 2002 and early 2003, before the NJDEP issued its approval to transfer the stock of Central Jersey Waste to me, and nearly two years before the restrictions regarding my father's involvement in the affairs of Central Jersey Waste were issued.

The licensing restrictions also required that the loans to Premier Management Group, Inc. be repaid within 24 months. While we made every effort to do so, the numerous legal and financial issues left in the wake of Mr. Abdalla's departure from the company made this difficult to do. While regular payments were made to Premier Management, the loans were not paid off until the end of 2008. In November 2008, when it was determined that the debtholder had been left off the annual A-901 Updates, an immediate correction letter was sent to NJDEP. The SCI's Report must therefore, be corrected in two respects. It states that "In the 2006 through 2009 A-901 registration updates of Central Jersey, all reference to Premier Management was omitted." The 2006 A-901 Update included both Alex Abdalla and Premier Management as Debtholders. In addition, on November 21, 2008 the 2009 A-901 Update was corrected to reflect the debt owed to Premier Management.

I would greatly appreciate the SCI's correction of these factual errors when it issues the final report. Should you have any questions on the above, I would be glad to speak with you at your convenience.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Respectfully submitted,



Frank Fiumefreddo, Jr.

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August 4, 2011

Mr. Frank Fiumefreddo, Jr.
Central Jersey Waste and Recycling, Inc.
432 Stokes Avenue
Ewing, NJ 08638

Dear Mr. Fiumefreddo, Jr:

You have asked me to provide you with a Certification as to information pertaining to the request for approval from the New Jersey Department of Environmental Protection for the purchase of stock of Mr. Alex Abdalla in Central Jersey Waste and Recycling, Inc. by you. Since I was the attorney that handled this transaction, I am pleased to provide you with this Certification.

CERTIFICATION

In late 2002 and the early part of 2003, I was requested by Frank Fiumefreddo, Jr., to assist him in the acquisition of the stock in Central Jersey Waste and Recycling, Inc. owned by Mr. Alex Abdalla. I was provided with the particulars concerning this acquisition and Mr. Abdalla's desire to sell his interest in the company. I began to develop the transactional documents (i.e. Stock Purchase Agreement, Promissory Notes) and discuss this with Mr. Abdalla. This effort produced executed agreements and I submitted a request to the NJDEP for this approval on February 25, 2003. The NJDEP issued an Order of Approval on April 7, 2003 (Docket No.: MA2003-009).

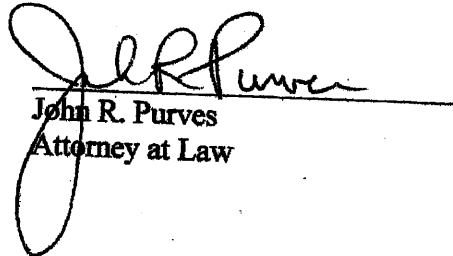
During the discussions with Mr. Fiumefreddo, Jr. and Mr. Abdalla I became aware of the existence of the Management and Loan Agreement between the company and Premier Management. I informed the parties that this should be disclosed to State officials and I was instructed to provide this information to the appropriate officials of the Attorney General's A-901 Unit. I was also asked to provide direction to the parties as to how best to handle this in relation to the purchase of the stock of Mr. Abdalla.

In late 2002 and early 2003 I had conversations with Deputy Attorneys General in the A-901 Unit and provided copies of the Management and Loan Agreement as well as information concerning the contemplated stock transaction. I was told that any subsequent approval of the stock purchase would require the repayment of any loans covered by the Management and Loan Agreement. The window would be approximately three years for this repayment.

As a result of the discussions with the A-901 Unit, I completed the transactional agreements and submitted the Petition to the NJDEP for approval of the stock purchase (February 25, 2003). As indicated above, the NJDEP approved the stock purchase and updated business and personal disclosures were submitted. In December, 2004 the NJDEP issued a Conditional License for the company with the conditions that Mr. Fiumefreddo, Sr. and Mr. Abdalla were not to be involved with the company and that the loan agreement must be repaid within 24 months of the December 2004 Conditional License approval.

At all times during my discussions with officials from the NJDEP and the Attorney General's Office, I believed that their only knowledge of the existence of the Management and Loan Agreement between the company and Premier Management was a result of the voluntary submission of the Agreement by the company through my interaction with state officials.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


John R. Purves
Attorney at Law

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